

BEFORE THE MARYLAND HEALTH CARE COMMISSION

IN THE MATTER OF

*

BAYADA HOSPICE

*

Docket No. 16-16-2383

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**COMMENTS SUBMITTED BY MONTGOMERY HOSPICE, INC.
IN OPPOSITION TO THE CON APPLICATION OF
BAYADA HOSPICE**

Montgomery Hospice, Inc. ("Montgomery Hospice"), as an interested party, submits the following comments opposing the application submitted to the Maryland Health Care Commission ("Commission") by BAYADA Home Health Care, Inc. d/b/a/ BAYADA Hospice ("Bayada") on October 7, 2016 with the objective of satisfying the Commission's review criteria and applicable State Health Plan standards for Hospice Services. The submitted comments will state with particularity the review criteria and State Health Plan standards that Montgomery Hospice believes have not been met by Bayada and the reasons why Bayada does not meet those standards. COMAR 10.24.01.08.F(c).

1. The Bayada application fails to demonstrate its organizational commitment to charity care as required by COMAR 10.24.13.05.J.

The State Health Plan requires each applicant to present a written policy illustrating how the applicant will ensure access to hospice services regardless of an individual's ability to pay. The applicant's policy is required to, at a minimum, demonstrate the applicant's track record in providing charity care in order to support the credibility of its commitment. The applicant must also provide a specific plan for achieving the level of charity care to which it has committed in its application.

The finalized data Bayada provided to the Commission on March 3, 2017 through its response to the second round of completeness questions establishes that Bayada provided a total

of \$167,443.12 of charity care across its entire multi-state operation (including home health services as well as general hospice services) from 2011 through the first half of 2016. This figure amounts to 0.25% of its total gross revenue.

Providing charity care is an extremely important component of providing hospice services. By way of reference, Montgomery Hospice provided \$467,316 in charity care in Montgomery County, in 2015. Montgomery Hospice has budgeted to provide a range of between \$450,000 and \$694,000 depending on patient census in charity care each year within Prince George's County once it begins providing hospice services there. Bayada, after budgeting to provide \$86,262 in charity care in 2018, will provide less than \$50,000 in charity care in years 2019 through 2021 combined.

Bayada also asserts that its contributions to its hospice foundation evidences its commitment to charitable giving. However, in Bayada's January 11, 2017 response to the first round of completeness questions, Bayada states that it has given \$20,237.90 through 45 grants and has also dispersed \$103,511.64 through its client and employee emergency fund. This would seem to be a relatively low commitment to charity in comparison to Bayada's net income of nearly \$23 million in 2015 alone. (see Exhibit 51, January 11, 2017 Completeness Response).

2. The Bayada application fails to demonstrate the availability of trained volunteers as required by COMAR 10.24.13.05.E.

The State Health Plan requires each applicant to have available sufficient trained caregiving volunteers to meet the needs of patients and families in the hospice program.

BAYADA's application does not provide a clear indication of how it will provide for an effective corps of volunteers, and gives no details about a viable plan to develop such volunteers in Prince George's County. Although it operates hospice programs in other states, Bayada only reports that its existing programs "currently work with over 220 volunteers pursuant to its

volunteer policy...." While Bayada's application cites to its volunteer policy, that would not seem to satisfy the requirement of COMAR 10.24.13.05.E to specifically describe the availability of trained volunteers for its proposed services in Prince George's County.

As a frame of reference, Montgomery Hospice currently has 300 active volunteers in Montgomery County. In 2015, these volunteers provided a total of more than 19,000 hours of service, made more than 14,000 patient visits, and drove more than 110,000 miles in order to help our patients. As the Commission can see, building a strong volunteer force is necessary to provide the high level of hospice services the residents of Prince George's County require.

3. Bayada would limit its Admission criteria by excluding pediatric patients.

COMAR 10.24.13.05B requires each applicant to identify its admission criteria and proposed limits by age, disease, or caregiver. In its application, Bayada attests that it will not accept pediatric patients, "other than in exceptional circumstances." Bayada does not elaborate on what it would consider satisfactorily exceptional circumstances. Indeed, Bayada is not the only applicant that would limit its services to adult residents of Prince George's County. Amedisys discloses that it will not provide hospice services to Prince George's County residents who are less than nineteen years old and P-B Health Hospice attests that it will only service patients who are at least 35 years old. Montgomery Hospice believes it is important to serve the entire age range of individuals who could benefit from hospice services.

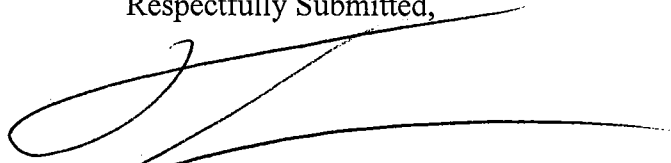
CONCLUSION

It is incumbent upon each CON applicant to understand the significant amount of resources necessary to provide the additional high-quality, reliable hospice services to the residents of Prince George's County that will be required in the approaching Target Years. The Commission has required the applicants to demonstrate how well they understand the scale of

financial commitment it will take to be a reliable hospice services provider to Prince George's County residents through the completion of six tables documenting relevant financial projections. It is not clear in the data provided by the Bayada tables that Bayada fully understands the scale of resources required to satisfy the need of Prince George's County residents. For instance, Bayada's Project Budget raises concerns that it has not planned to devote adequate working capital startup costs to initiate what would be its first general hospice services operation in the State of Maryland. These working capital startup costs are essential to initiate the provision of general hospice services in a new geographic area. Indeed, Montgomery Hospice has allocated over \$2.1 million to working capital startup costs in its Project Budget. Included in these costs are such vital outlays as public education programs, lease arrangements for requisite space and equipment, and costs associated with the additional interdisciplinary personnel needed to provide hospice services in the new area.

In sum, the Commission is responsible for reviewing each Certificate of Need application to ensure that it satisfies the review criteria published at COMAR 10.24.01.08G and, in this instance, the State Health Plan standards incorporated at COMAR 10.24.13 applicable to general hospice services Certificate of Need applicants. The application submitted by Bayada does not appear to meet the required minimum standards and review criteria.

Respectfully Submitted,

A large, stylized handwritten signature in black ink, appearing to read 'Timothy B. Adelman', is written over a horizontal line.

Timothy B. Adelman
Hall Render Killian Health & Lyman, P.C.
180 Admiral Cochrane Drive, Suite 370
Annapolis, Maryland 21401
Counsel for Montgomery Hospice, Inc.

I hereby declare and affirm under the penalties of perjury that the facts states in Montgomery Hospice's Comments on Bayada Hospice's CON Application for Hospice Services in Prince George's County are true and correct to the best of my knowledge, information and belief.

5/30/17
Date

Ann Mitchell
Ann Mitchell, MPH
President and CEO
Montgomery Hospice

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of May, 2017 a copy of the a copy of the COMMENTS SUBMITTED BY MONTGOMERY HOSPICE, INC. IN OPPOSITION TO THE CON APPLICATION OF BAYADA HOSPICE was sent via First Class Mail and Electronic Mail to the following:

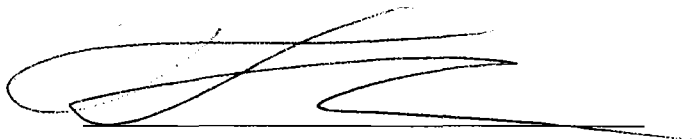
Marta D. Harting
Venable LLP
750 E. Pratt Street, Suite 900
Baltimore, Maryland 21202
MDHarting@venable.com

Lena M. Woody
Danielle Hodges
2535 Saint Paul Street
Baltimore, Maryland 21218
woodyl@p-bhealth.com
hodgesd@p-bhealth.com

Andrew Solberg
5612 Thicket Lane
Columbia, Maryland 21044
asolberg@earthlink.net

Randy Brown
110 N. Tallahassee Ave.
Atlantic City, New Jersey
08401
Rbrown2@bayada.com

Jonathan Montgomery, Esquire
223E. Redwood Street
Baltimore, Maryland 21202
jmontgomery@grflaw.com

A handwritten signature in black ink, appearing to read 'Timothy B. Adelman', with a long horizontal line extending to the right.

Timothy B. Adelman